



**MINUTES OF THE SPECIAL JOINT MEETING OF
THE CITY COUNCIL/REDEVELOPMENT AGENCY
OF THE CITY OF HAYWARD
City Council Chambers
777 B Street, Hayward, CA 94541
Tuesday, October 23, 2001, 8:00 p.m.**

MEETING

The Special Joint City Council/Redevelopment Agency Meeting called to order by Mayor/Chair Cooper at 8:00 p.m., followed by the Pledge of Allegiance led by Council/RA Member Hilson.

ROLL CALL

Present: COUNCIL/RA MEMBERS Jimenez, Hilson,
Rodriquez, Ward, Dowling, Henson
MAYOR/CHAIR Cooper
Absent: None

PUBLIC COMMENTS

Jet Chapman, a concerned parent, expressed her concerns related to an incident that occurred on October 12 during a Hayward Youth Football (HYFL) practice.

Clifford Chapman asked for an apology from the administrators of this non-profit organization related to the same incident.

Anthony Gonzales gave his time to Jonathan Hilliard, the President of the Hayward Youth Football League (HYFL). Mr. Hilliard reported on the various activities of this group, the positive results of the group and noted that Tennyson High School is its home field. He presented Council Member Henson with an honorary coach's cap.

Bob Davis remarked on the practices of the HYFL and strongly expressed his concerns related to a parent meeting that was held on October 18th as a result of the October 12th incident.

Norman Dale Guerrero commented on the lack of flags in school classrooms and his efforts to provide them. He presented Mayor Cooper with two flags for use in the schools.

Susanne Cox requested assistance in clearing debris from around her home. She commented on the blight connected with an abandoned house and persons living in automobiles in the vicinity of her home on O'Neill.

Barbara Swarr congratulated the Council on funding the sidewalk improvement program for the downtown area provided for at last week's meeting.

Francisco Abrantes spoke on safety conditions in housing.

Ron Barklow expressed concerns for endangered species, which may be impacted by the temporary route used by trucks providing fill to the development on the Oliver West property.

Jason Moreno discussed the public comment section of the agenda.

Raquel Ross commented that there are some discrepancies in what actually occurred at the parent meeting for the HYFL that was previously discussed. She spoke favorably of the football league and expressed numerous benefits her son has received as a team member.

Robert Lopez spoke on his candidacy for Council Member.

Cris Freitas also spoke on behalf of the Hayward Football League.

Aline Nunes spoke against Vesona Properties and its elimination of Section 8 housing units in its apartment complexes. She asked for Council support in asking the property managers to extend her a few days to move out of her unit.

Yvette Jones spoke on behalf of her son, who was involved in the HYFL incident being discussed and what may have actually occurred. She spoke favorably on the family enrichment foundation.

Jeff Reno, a coach for the HYFL, apologized to everyone involved on behalf of the entire organization.

Mayor Cooper called for a five-minute recess.

CONSENT

1. Approval of Minutes of the Special Joint City Council/Redevelopment Agency Meeting of October 16, 2001

It was moved by Council/RA Member Dowling, seconded by Council/RA Member Ward, and unanimously carried to approve the minutes of the Special Joint City Council/Redevelopment Agency Meeting of October 16, 2001.

2. Resolution Calling for a General Municipal Election to be held on March 5, 2002

Staff report submitted by City Clerk Reyes, dated October 23, 2001, was filed.

Ron Barklow stated that there be a fair and equal election. He asked that public comments remain at the beginning of the meeting, that the police and fire departments as well as the Chamber of Commerce not be involved in campaigning.

It was moved by Council Member Henson, seconded by Council Member Ward, and unanimously carried to introduce and adopt the following:

Resolution 01-153, "Resolution of the City Council of the City of Hayward Requesting the Board of Supervisors of Alameda County to Provide for the Consolidation of a General Municipal Election of the City of Hayward with the State of California Primary Election



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to be Held on March 5, 2002, for the Purpose of Electing the Mayor and Two Members of the City Council for the Terms of Four Years”

3. Hayward Executive Airport Striping and Marking: Award of Contract

Staff report submitted by Deputy Director of Public Works Bauman, dated October 23, 2001, was filed.

It was moved by Council Member Dowling, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-151, "Resolution Approving the Hayward Executive Airport Striping and Marking Project, Project 6824, and Awarding Contract to On-Line Striping Service"

4. Participation in Business License Reporting Pilot Program with the Franchise Tax Board

Staff report submitted by Revenue Manager Larson, dated October 23, 2001, was filed.

It was moved by Council Member Dowling, seconded by Council Member Ward, and unanimously carried to adopt the following:

Resolution 01-152, "Resolution Authorizing the City Manager to Execute a Contract with the Franchise Tax Board"

HEARINGS

5. Planned Development No. 01-120-02 & Tentative Map Tract 7315 – American Housing P.M.C. (Applicant) – Dinesh and Rashmi Sawhney (Owners) – Request to Change the Zoning from RS (Single-Family Residential) to PD (Planned Development) District – The Property is Located at 571 Harris Road in the Harder-Tennyson Neighborhood

Staff report submitted by Associate Planner Pearson, dated October 23, 2001, was filed.

Planning Manager Anderly described the property and discussed the proposal. She noted that the Planning Commission had recommended the project.

Mayor Cooper opened the public hearing at 9:26 p.m.

Dianne Lorton expressed her concerns related to parking problems, which already impact her neighborhood.

Jason Moreno commented on the impacts of this project on local schools.

Frank Goulart agreed that there are parking impacts and commented on the lack of open space in that area. He also suggested that affordable units be included as part of this development.

In response to a question from Mayor Cooper, Planning Manager Anderly noted that this development might provide a motive for neighborhood improvements. A discussion ensued regarding the parking available in the area. It was noted that a homeowner's association could create parking restrictions within the complex through their regulations.

J.V. McCarthy spoke against the site configuration and related safety issues. He wondered about access and egress of the project during an emergency.

Dinesh Sawhney, the applicant, spoke on behalf of his project and answered questions from members. He commented that this project would add landscaping and beauty to the area. He noted that this project meets City parking standards with extra spaces for guests. He indicated that the project meets the Fire Department standards for emergencies.

Council Member Jimenez emphasized that staff noted in its report that the impact of students could be accommodated by the school district. He then inquired about the cost of the units, which was noted by the developer.

Council Member Henson suggested one less unit in the project to allow for open space and inquired on the establishment of the price range of the homes.

Mr. Sawhney noted that the projected sales price would be between \$375,000 and \$400,000. He commented that this site is actually allowed for seventeen units, but he chose to construct only the nine units. He said their original plan included townhouse units. He said the average size of the backyards was close to 1,000 square feet. He had made a comparison with other homes in the area and suggested that the project would add to the value of the properties in the neighborhood.

Council Member Ward asked whether he had done similar developments in the past and the response was that the projects were mostly renovations. He suggested that the developer work with staff to determine any privacy issues.

Mayor Cooper closed the public hearing at 9:51 p.m.

Council Member Hilson suggested adopting an ordinance prohibiting parking on private streets, which would be marked with a red curb.

There was the suggestion to add locked mailboxes.

Council Member Dowling moved, seconded by Council Member Henson, to adopt the mitigated negative declaration, approve the zone change, the preliminary development plan and approve the



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tentative map tract with several conditions which include keeping the garage area clear so that cars would be parked in them, add locked mail boxes, and discuss with staff further privacy issues.

Council Member Rodriquez noted that the parking issue has become a problem throughout the City. She also commented that more than six children might impact the school system. She would like to see more information on the real impact to the schools.

Council Member Hilson asked for further clarification of condition #5, regarding parking reserved for visitors. He asked for a more clearly worded condition.

Council Member Ward congratulated the developer on this single-family home proposal. He then commented on issues related to the maintenance of the private street in this development. He said he hoped this would stimulate the neighboring homeowners to bring their homes up to a higher standard.

Council Member Henson supported the motion. He noted that this in-fill development fits in with Council's priorities. In regards to parking, he was confident that staff has addressed this by adding the conditions that restrict the use of garages.

It was moved by Council Member Dowling, seconded by Council Member Henson, and unanimously carried to introduce and adopt the following:

Intro Ordinance 01-__, "Ordinance Amending Section 10-1.147 of Chapter 10, Article 1 of the Hayward Municipal Code by Rezoning Certain Territory Located on Harris Road Pursuant to Zone Change Application No. 01-120-02"

Resolution 01-154, "Resolution Certifying that the Initial Study and Mitigated Negative Declaration for Tentative Map for Tract 7315 Have Been Completed in Compliance with the California Environmental Quality Act and Approving the Tentative Map for Tract 7315"

Resolution 01-155, "Resolution Approving Zone Change for Planned Development Application No. 01-120-02 and Conditionally Approving the Preliminary Development Plan"

6. Adoption of Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Property Located at 22793 - 22799 Watkins Street (APN: 428-0071-033)

Staff report submitted by Redevelopment Director Bartlett, dated October 23, 2001, was filed.

Redevelopment Director Bartlett enumerated chronologically the activities involved with this property that led to this proceeding. She discussed the Agency's interest in acquiring the property. She noted that to date 15 of the 18 properties on the site have been acquired. Neither of the two property owners under discussion prepared an RFP for the area. She noted that all of the tenants would be offered relocation assistance. The fair market value was \$402,000. The Agency made an earlier offer of \$100,000 less. The counter offer is \$600,000. This figure can not be supported. She said staff would continue to discuss this matter with the owner.

Mayor/Chair Cooper opened the public hearing at 10:11 p.m.

Walter and Betty Remstedt displayed photos and discussed the differences of the comparable property in the area. They noted that this is the only income producing property that they own and that it is their retirement. She asked that they be exempted from the eminent domain in this block.

Kevin Lally, attorney for the owner, discussed the public use and necessity, and whether the project is planned for the greatest public good and the least private injury. He argued that there is no existing project and therefore this property is not necessary. He said that there is no valid public use proposed for the property. He stated that this is taking private property for private uses. There is no blight in this property. He objected to the offer made to the owner. It did not include the fixtures and equipment on the property that are a component of the real estate. He noted the loss of a tenant should have been considered in the proposal. He emphasized that there is no legal authority to acquire this property. He insisted that without a project there could be no CEQA compliance. He requested that the Agency not adopt this proposal. He asked for his recent letter to be included in the public hearing.

City Attorney/General Counsel O'Toole reported that the environmental impacts of the proposed Site 4 were considered as part of the EIR program that was certified in 1987 and amended in 1998. This action authorizes the acquisition of land, which will allow the implementation of the core area plan. He also noted, again, that Mr. Remstedt requested specifically for his property to be included in the Redevelopment Area.

Barbara Heringer Swarr spoke against adopting the resolution to initiate the eminent domain proceeding.

Frank Goulart spoke to the larger issues regarding government taking private property for a private developer to make money. This does not seem to be just. He commented on the theory of "bulldoze and subsidize." He commented that the 1987 Program EIR for the downtown area missed the historic buildings in the area.

Lydia Simpson, a tenant with the business Dream Girls Hair Salon, said she built this business. She said they have been waiting for Redevelopment to build something they could enjoy. She stated that this action would definitely cause her a hardship.

Council/RA Member Dowling asked whether she was aware of the Redevelopment Area Plan and discussed benefits for relocating. Ms. Simpson noted that she had looked into moving but it



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is very expensive. She said her present monthly rent is \$1,000, but most other places are more than \$2,000.

J.V. McCarthy spoke against the issue of eminent domain for the entire block. He commented on the ultimate intent of redevelopment of the area. He wondered how far this program would push established neighborhoods.

Francisco Abrantes also spoke against the resolution.

Robert Lopez spoke on behalf of the property owners and against the resolution.

Suzanne Cox spoke against the eminent domain proceedings.

Jason Moreno spoke against the resolution and asked that the vote be delayed.

Mayor/Chair Cooper closed the public hearing at 10:44 p.m.

Council/RA Member Ward asked if further negotiations are being provided for to continue discussions with the property owner. He moved to adopt the resolution including the four additional conditions.

City Attorney/General Counsel O'Toole discussed the attempt by staff to appraise the fixtures and equipment on the property, but was refused entrance by both the owner and the tenants. He emphasized that this proposal would authorize staff to begin eminent domain proceedings to acquire this property. The intent is to accumulate property to carry out a previously approved development core for that site. The entire site is two acres so it does not require any zoning or General Plan amendments because it is consistent with all the plans. It is considered an in-fill development project.

Council/RA Member Ward encouraged the owner to work with the City to establish what he would believe to be a reasonable price for the property.

Council/RA Member Henson expressed his hope that tenant issues could be resolved as well.

Redevelopment Director Bartlett noted that this action would allow the Agency to start working with the tenants.

Council/RA Member Rodriquez expressed her concerns in taking tenants from established businesses. She said she was particularly interested in what happens to an established business through this process. She was told there is a Relocation Agent on retainer working with the tenants. They have a minimum of 90-days for relocation. She suggested that staff be particularly sensitive to this business, the Dream Girls Beauty Salon. She asked the owner to stay in touch and let the Members know how this works out.

Redevelopment Director Bartlett felt that a suitable location for this tenant could be found.

Mayor/Chair Cooper emphasized how important it is to build a clientele. She commented that she agreed in the importance of having a personal service in the downtown area.

It was noted that staff talking points be added to the record.

It was moved by Council/RA Member Ward, seconded by Council/RA Member Henson, and unanimously carried to introduce and adopt the following:

RA Resolution 01-12, "Resolution of Necessity Declaring a Public Need for and Authorizing the Acquisition and Immediate Possession by Eminent Domain Proceedings or Otherwise of Real Property Located at 22793-22799 Watkins Street in Furtherance of the Downtown Hayward Redevelopment Plan"

7. Adoption of Resolution of Necessity to Initiate Eminent Domain Proceedings to Acquire Property Located at 22701 Watkins Street (APN: 428-0071-026)

Staff report submitted by Redevelopment Director Bartlett, dated October 23, 2001, was filed.

Director of Community and Economic Development Ehrenthal made the report on behalf of Redevelopment Director Bartlett and responded to Council's inquiries. She noted that this action does not include Mrs. Heringer's personal property, her house. The Agency has obtained an appraisal of the property in the amount of \$330,000. An offer was tendered to the owners of \$323,000, with \$7,000 deducted for the cost to remove a ground-water monitoring well which was installed as a result of contamination during the removal of several gasoline tanks. The appraisal value was based on comparable sales data for other auto facilities from the Hayward-San Leandro area. She noted that the owner made a counter offer of \$1 million with no supporting documentation.

Mayor/Chair Cooper opened the public hearing at 10:59 p.m.

Barbara Swarr commented on the comparable properties used to appraise her mother's properties. She added that among the list of comparables, some were sold for more than \$650,000.

Both property owners spoke against the appraisal. They said this income-generating property was developed for their retirement.

Kevin Lally, attorney for the owner, said this is not about price, but about keeping private properties and not having properties taken. He pointed out that there is no necessity, no public good in land banking, and strongly expressed his disagreement with the General Counsel/City Attorney. He also commented that there is no legal authority.



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Jenn Swarr spoke in favor of the property owners and commented that they are reasonable. She said the property has been in her family for more than 50 years. She expressed strong disagreement with the Redevelopment Agency taking over the property.

Jenny Heringer asked how the estimate for the property was derived. She would like more information. They would have accepted a decent offer.

J.V. McCarthy spoke against the proposed eminent domain decision.

Francisco Abrantes spoke against eminent domain. He said the stress of the action on the elderly is a shame.

Walter Remstedt spoke against the adoption of the resolution. He commented on his own mother's death.

Robert Lopez and Suzanne Cox submitted cards, but were not available to speak.

Frank Goulart commented against the proposed eminent domain proceeding.

Mayor/Chair Cooper closed the public hearing at 11:23 p.m.

City Attorney/General Counsel O'Toole commented that land assembly (land banking) is specifically authorized by Redevelopment Law and is very common. He also noted that the "public good," is the implementation of the core area plan, which calls for residential properties there to be transit-oriented and pedestrian friendly.

Council/RA Member Henson noted that this is a difficult subject, however, it is consistent with our efforts to implement the core downtown plan, there is no intent to remove someone from their property, and it is geared toward providing a fair market value. He moved the staff recommendation including the four additional conditions.

Council/RA Member Jimenez emphasized that he could not vote against the Zaballos family. He said he would therefore abstain.

It was moved by Council Member Henson, seconded by Council Member Ward, and carried with Council/RA Member Jimenez abstaining, to adopt the following:

RA Resolution 01-13, "Resolution of Necessity Declaring a Public Need for and Authorizing the Acquisition and Immediate Possession by Eminent Domain Proceedings or Otherwise of Real Property Located at 22701 Watkins Street in Furtherance of the Downtown Hayward Redevelopment Plan"

COUNCIL REPORTS

There were no Council Reports.

ADJOURNMENT

Mayor Cooper adjourned at 11:26 p.m.

APPROVED:

Roberta Cooper, Mayor, City of Hayward
Chair, Redevelopment Agency

ATTEST:

Angelina Reyes, City Clerk, City of Hayward
Secretary, Redevelopment Agency